

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber)**

**Chamber Ref: FTS/HPC/EV/22/3345**

**Re: Property at 2/2 Duncan Court, Royal Street, Gourock, PA19 1PW (“the Property”)**

**Parties:**

**Mr Graham Duncan, Seafield, Finnockbog Road, Inverkip, PA16 0BD (“the Applicant”)**

**Miss Catriona Stevenson, 2/2 Duncan Court, Royal Street, Gourock, PA19 1PW (“the Respondent”)**

**Tribunal Members:**

**Virgil Crawford (Legal Member) and Elizabeth Currie (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

**BACKGROUND**

1. By Lease dated 26<sup>th</sup> May 2021 the Applicant let the Property to the Respondent. The rent payable was £465.00 per calendar month;
2. Arrears of rent appear to have accumulated relatively soon thereafter, resulting in the Applicant presenting two separate applications to the Tribunal, one for an order for eviction on the basis of rent arrears (EV/22/3345) and one for a payment order in relation to the rent outstanding (CV/22/3346). Both cases were assigned for a case management discussion on 27<sup>th</sup> February 2023 at 10am;
3. The Applicant served a Notice to Leave on the Respondent on 24<sup>th</sup> September 2021;

4. A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was served on the local authority;
5. The Applicant had engaged with the Respondent in relation to the arrears in accordance with pre action protocols;
6. Prior to the Case Management Discussions the Respondent forwarded written submissions to the Tribunal. These submissions, put briefly, provided an explanation, from the Respondent's point of view, as to why rent arrears arose, stated that rent would be paid on an ongoing basis with additional sums towards the arrears and, separately, appeared to suggest that it would not be reasonable to grant an order for eviction;
7. After hearing Parties the Tribunal determined that it would be appropriate to assign a hearing in relation to each of the applications;
8. The Respondent advised that she was now in a position to make payment of rent on an ongoing basis and to make payment towards arrears at the rate of £200.00 per month. If these payments were made it would be a factor for the Tribunal to consider in relation to whether it was reasonable to grant an order for eviction at a later date;

## **THE HEARINGS**

9. The Hearing for each case was conjoined with the other. Both parties participated in the Hearings. The Applicant was accompanied by Muriel Hall of Neil Clark estate agents as she was best placed to confirm exact figures in relation to rent arrears;

### **Rent Arrears**

10. The Respondent did not dispute the arrears of rent although provided explanations as to the circumstances in which they arose. She had done so at the Case Management Discussions on 27<sup>th</sup> February 2023. On that occasion she stated that she had been the victim of domestic abuse and that her former partner, who is now being prosecuted for a serious assault upon her, indulged in controlling behaviour. It was suggested that he had controlled or used her money for purposes other than payment of rent, resulting in arrears arising. In January 2022, she was the victim of a serious assault at the hands of her former partner. It appears that a prosecution is ongoing and a trial was recently adjourned until later in the year. She made reference to problems with payment of her wages, in particular after she had been on a period of sick leave, with issues arising from over taxation thereafter;
11. Significantly, however, she had not made the payments she stated she would at the time of the Case Management Discussions. An updated rent statement had been provided to the Tribunal in advance of the Hearings. A further one was provided during the Hearings. On the day of the Case management Discussions – 27<sup>th</sup> February 2023 - £200.00 was paid. Two further payments – each for £200.00 – were paid on 19<sup>th</sup> April and 26<sup>th</sup> May 2023. The only other payment made was £465.00 on 1<sup>st</sup> March 2023, that being a monthly rent payment. No further payments of rent had been made since 1<sup>st</sup> March 2023. Another three have fallen due;
12. The arrears have, therefore, increased despite the assurances given by the Respondent previously. As at the date of the Hearings, the arrears amounted

to £4,578.08. The Respondent accepted that figure. The Applicant sought a payment order in that amount and the Tribunal granted same;

### **Eviction**

13. The application for an eviction order proceeded on the basis there were at least 3 months arrears of rent. The arrears having been accepted, the issue for the Tribunal thereafter was whether it was reasonable to grant an order for eviction;
14. In relation to her personal circumstances, she is a single person, although she is involved in a relationship and is now 8 months pregnant to her new partner. She lives alone at the Property. The Property is in close proximity to her mother and her sister who are a valuable source of support to her. She has 3 children aged 17 years, 13 years and 11 years. These children do not reside with her permanently but visit her at the Property on a regular basis;
15. She is due to give birth on 30<sup>th</sup> June 2023 but advised she is likely to be undergoing a caesarean section in two weeks time. There will, of course, be a recovery period thereafter. She would have concerns about being evicted with a new born child while she was still recovering from that procedure;
16. She has been in contact with the local authority about her housing situation and they are "putting her on a list". She advised she is "still looking for somewhere". She accepted that the current situation could not continue and accepted that an order for eviction was likely;
17. The Tribunal considered that the long standing and significant level of arrears justified the grant of an order for eviction. The only matter in the personal circumstances of the Respondent which mitigated against that was her pregnancy and imminent child birth. Given she is already seeking alternative accommodation and is engaging with the local authority in that regard, the Tribunal considered that it was reasonable to grant an eviction order but the date of enforcement should be delayed until 28<sup>th</sup> July 2023;

### **FINDINGS IN FACT**

18. The Tribunal found the following facts to be established:-
  - a) By Lease dated 26<sup>th</sup> May 2021 the Applicant let the Property to the Respondent. The rent payable was £465.00 per calendar month;
  - b) The Respondent was in arrears of rent. As at the date of the applications to the Tribunal arrears amounted to not less than £2,200.00. As at the date of the Hearings arrears amounted to £4,578.08. the Respondent was continuously in arrears throughout that period also;
  - c) As at the date of the Hearings the sum of £4,578.08 is due, resting and owing by the Respondent to the Applicant;
  - d) A notice to leave was served on the Respondent on 24<sup>th</sup> September 2021;
  - e) A notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was served on the local authority;
  - f) The Respondent is in arrears of rent and has been for a continuous period of three months;
  - g) The Applicant has complied with Pre Action Protocols in relation to rent arrears;

h) It is reasonable to grant an order for eviction.

## **DECISION**

The Tribunal grants order to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings furth and from the Property at 2/2 Duncan Court, Royal Street, Gourock, PA19 1PW and to make the same void and redd that the Applicant or others in their name may enter thereon and peaceably possess and enjoy the same.

Order not to be executed prior to 12 noon on 28<sup>th</sup> July 2023

## **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

# V Crawford

5<sup>th</sup> June 2023

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Legal Member/Chair

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Date